

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 2091 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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VORA HIMATLAL CHIMANLAL

Versus

VORA PULLIBEN BHIKHABHAI  
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Appearance:

MR PY DIVYESHWAR for MR KS JHAVERI for Petitioner  
None present for Respondent  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/01/2000

ORAL JUDGEMENT

Heard the learned counsel for the petitioner.

2. The plaintiff- petitioner filed a regular civil  
suit No. 19 of 1984 in the court of Civil Judge (J.D.),  
Tharad for specific performance of the agreement to sale

dated 5th April, 1982. The written statement was submitted by the respondent in the suit on 6th July, 1985 and the issues were framed by the court below on 10th January, 1986. When the examination of the plaintiff was in process, an application came to be filed by the defendant- respondent for amendment of the written statement on 4th October, 1990 which came to be allowed under the impugned order. Hence, this revision application.

3. It is contended that by this amendment in the written statement the defendant - respondent sought to raise a counter claim which on the day on which this application has been filed had become barred by limitation. It has next been contended that by this amendment in the written statement, whole complexion of the suit will be changed.

4. I do not find any merits in any of the contention. The cause of action of suit remains to be the same. It is open to the defendant to raise counter claim and for which amendment can be allowed at any stage of the trial. However, in case the counter claim sought to be raised is barred by limitation, this plea is still open to the plaintiff- petitioner to be raised in the suit. Grant of application for amendment does not mean so as to allow the claim made by the defendant. It is only a claim which has been permitted to be raised and unless it is established in accordance with law in the trial, no relief can be granted. This point is still open to the petitioner to be raised re: that the counter claim as prayed in the amended written statement is barred by limitation.

5. In the result, this revision application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs. The suit is of the year 1984. Learned trial court is directed to dispose of the suit finally within a period of six months from the date of receipt of writ of this order.

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zgs/-